



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING & DEVELOPMENT**

Application Number: 2301325
Applicant Name: Brittani Ard for Swanson Properties
Address of Proposal: 1125 North 94th Street

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for construction of four two-unit townhouses with attached garages with existing structures to be demolished.

The following approvals are required:

Administrative Conditional Use - to allow construction of a single purpose residential structure in a Commercial 1 zone, with 65-foot allowed height limit (C1-65).
Chapter 23.47.004 E, Seattle Municipal Code.

Variance - To allow less than the required floor to ceiling height for a mixed use building in a Commercial 1 zone with a 65-foot allowed height limit (C1-65).
Chapter 23.47.008C2. (Required: 13 feet floor to floor, Proposed: 9.85 feet).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction

BACKGROUND DATA

Site Description

The subject 9,626 sq. ft. property is a split zoned lot Commercial-1, with a 65-foot height limit (C1-65) and Lowrise 3 (L-3)) and is located on the south side of North 94th Street, and approximately one half block east of Aurora Avenue North. The site is currently is developed with a five-unit residential structure, according to City permit records.

Zoning and Development in the Vicinity

The surrounding zoning to the east is L-3 and development consists of single family and multifamily structures. The zoning changes to C1-65 75 feet into the property from the east property line and continues to the west where commercial businesses operate along Aurora Avenue North. Directly south of the site the zoning is L-3 the lots directly in line with this lot abutting Commercial 1 zoning to the west. These lots are developed with single family and multifamily structures.

Current Proposal

The applicant proposes to construct four two-unit townhouse structures with garages within each structure. One full unit and portions of two other units will be within the C1-65 zone.

Public Comment

No public comment letters were received during the Master Use Permit comment periods, which ended May 21, 2003 with the revised comment period ending January 28, 2004.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

All conditional uses shall be subject to the procedures described in Chapter 23.76, and shall meet the following criteria:

- 1. The use shall not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

The majority of the site is zoned L-3 and is currently developed with a residential use. The proposed use will not be a detriment to the public welfare or injurious to property in the area as the small area of C-1 zoning on this site is not suitable for commercial development and will be developed with the residential use that will occupy the L-3 zoned portion of the site.

- 2. In authorizing a conditional use, adverse impact may be mitigated by imposing any conditions needed to protect other properties in the zone or vicinity and to protect the public interest. The Director shall deny or recommend denial of a conditional use if it is determined that adverse impacts cannot be mitigated satisfactorily.*

This proposal will not create any adverse impacts to neighboring properties in the zone or vicinity. The properties to the east (on the same block) and to the south of the site are all zoned multifamily residential (L-3) and developed with residential structures. The current permitted use on the site is a five unit residential structure.

Section 23.47.006B4 contains criteria for permitting single purpose residential uses in commercial zones other than Commercial 2 zones. The following includes each code section and an analysis of the project's relation to each: "In order to conserve the limited amount of commercially zoned land for commercial use, single-purpose residential structures shall

generally not be allowed in commercial zones”. Single purpose residential structures as provided for in Section 23.47.006.B4 may be permitted in NC1, NC2, NC3 and C1 zones as an administrative conditional use only if the following circumstances exist:

- a. Due to location or parcel size, the proposed site is not suited for commercial development; or*
- b. There is substantial excess supply of land available for commercial use near the proposed site, evidenced by such conditions as a lack of commercial activity in existing commercial structures for a sustained period, commercial structures in disrepair, and vacant or underused commercially zoned land; provided that single-purpose residential development shall not interrupt an established commercial street front. As used in this subsection, an “established commercial street front” may be intersected by streets or alleys, and some lots with no current commercial use.*

The site is split zoned with the west 25 feet of the parcel zoned C1-65 and the rest of the parcel, 75’, zoned L-3. The small amount of C1 zoning on this site would make commercial use undesirable and difficult for this site. West of the site along North 94th is an auto body repair shop and across North 94th Street is a cable television office and a parking lot for service vans and trucks. This particular site with the small amount of commercial zoning would not be conducive to a lucrative commercial development. The trend for commercial uses appears to be more along Aurora Avenue North as opposed to North 94th Street. Therefore, the small portion of C-1 zoning on this site is not suited for commercial development. Residential development on the subject site, partially zoned C1-65, would not materially affect the viability of the existing and future commercial development in the vicinity as the trend for commercial development is mostly along Aurora Avenue North. Thus, the proposal satisfies the criteria for constructing a portion of a single purpose residential structure within the area of the site zoned C1-65.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The proposal to construct a single purpose residential structure in a C1-65 zone is **GRANTED**.

ANALYSIS - VARIANCE

Variances from the provisions or requirements of the Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

- 1. Because of unusual conditions applicable to the subject property including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The existing property is zoned L-3 with a 25-foot strip of C1-65 zoning along the west side of the property. The property is currently developed with a five-unit apartment.

The commercially zoned portion of the site is 25 feet wide by 96 feet deep which would provide 2400 sq. ft. of available area for commercial development. Because of the width of the commercially zoned area it would not be suitable for commercial use. The existing uses facing

this block are an auto body repair shop to the west of the site and a cable television office with a parking area across the street. The trend of commercial uses is typically along Aurora Avenue North. Other uses on this block to the east are residential within the residential L-3 zone.

The existing location of the commercial zoning would require that the applicant provide a 13 foot floor to floor height on the first floor of the portion of the structure that is located in the 25-foot area zoned C1-65'. As this is proposed for residential only, this would required that end units projecting this portion of the site would have different floor and ceiling plates that would not likely allow for the same height as the properties on the L-3 portion. This would create units or portions of units to be at different levels and different heights as the portion of the structure located in the L-3 zoning. This would deprive the property of rights and privileges enjoyed by other properties in the L-3 dominated zoning in the vicinity as the existing residential structures, although in the L-3 zone only, are not required to have a 13 - foot floor to floor height on the first floor. Because the Conditional Use analysis above would allow for a single purpose residential structure, requiring the 13-ft. floor to floor height to allow for future commercial use would deprive the property of rights and privileges that are available in the L-3 zoning which dominates this particular site and the fact that the 25 foot strip available for commercial use would likely not be suitable for commercial uses.

2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

The site is currently zoned predominantly L-3 with a small strip, 25 feet, of commercially zoned area on the west side of the site. Allowing the portion of the structure that will be located in this area to maintain the same floor and ceiling plate heights as the rest of the structure located in the L-3 portion of the site would not go beyond the necessary to afford relief. Because the commercial zoned portion of the site is so small it would not likely be suitable for commercial use and therefore the 13-foot floor to floor heights would not be necessary. Because other properties in the vicinity have larger commercial areas with the ability to develop to the commercial standards and provide viable commercial space, the granting of the variance would not be a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

The proposal would not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity. This addition will, with the exception of the 13 ft. floor to floor heights, meet all other development standards applicable to this development.

The intent of the 13 foot floor to floor height is to encourage commercial use of the ground floor if the residential use is ever discontinued. Because of the amount of commercially zoned area on this parcel, it is not likely that it would be suitable for commercial use in the future.

4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and

The portion of the structure located in the small strip of commercially zoned area on the site would be required to meet the 13- foot floor to floor heights. This would require that the portion of the structure in the L-3 zone and the portion in the C1-65 zone would have different floor and ceiling plate heights. In one instance, a portion of a unit would be required to have different floor and plate heights in order to meet the height limit of the L-3 zone and the required floor to ceiling height in the C1-65 zone. This requirement would create a practical difficulty designing and constructing the building when this space will not likely ever be suitable for commercial use.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulations and procedures for the use of land. Procedures are established to increase citizen awareness of land use activities and their impacts and to coordinate necessary review processes.

The granting of the variance will allow the proposed single purpose residential structure located within the C1-65 zoned portion of the site to maintain the same flow and design as what is proposed in the abutting L-3 portion of the site. As this portion of the site is not likely suitable for commercial use now or in the future, allowing the reduced floor to ceiling heights will be within the spirit and purpose of the Land Use Code.

DECISION – VARIANCE

Variance to allow less than the required floor to ceiling height for a single purpose residential structure in a Commercial 1 zone with a 65-foot allowed height limit (C1-65) is **GRANTED**.

CONDITIONS-ADMINISTRATIVE CONDITIONAL USE

None.

CONDITIONS-VARIANCE

None.

Signature: _____ (signature on file) Date: March 4, 2004
Lori Swallow, Land Use Planner
Department of Planning and Development

LS:bg

Swallow/doc/ACU/2301325.dec